

### § 1.3

(ii) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(iii) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in paragraph (b)(1) of this section, the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

(3) The exemptions set forth in paragraph (c)(1) of this section apply to each of the three categories of information set forth in paragraph (a) of this section.

(4) *Segregable portions of records.* Portions of some records may be denied leaving the remaining reasonably segregable portions which must be released to the requester. These portions are released only when the meaning is not distorted by deletion of the denied portions and when it reasonably can be assumed that a skillful and knowledgeable person could not reconstruct the deleted information. When a record is denied in whole, the response advising the requester of that determination shall specifically state that it is not reasonable to segregate portions of the record for release.

(5) *Application of exemptions.* Even though an exemption described in paragraph (c)(1) of this section may be fully applicable to a matter in a particular case, a component of the Department of the Treasury may, if not precluded by law, elect under the circumstances of that case not to apply the exemption. The fact that the exemption is not applied by a component in that particular case will have no precedential significance in other cases, but is merely an indication that, in the particular case involved, the component

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finds no compelling necessity for applying the exemption.

#### **§ 1.3 Publication in the Federal Register.**

(a) *Requirement.* Subject to the application of the exemptions described in § 1.2(c) and subject to the limitations provided in paragraph (b) of this section, each component of the Department of the Treasury is required, in conformance with 5 U.S.C. 552(a)(1), to separately state, publish and maintain current in the FEDERAL REGISTER for the guidance of the public the following information with respect to that component:

(1) Descriptions of its central and field organization and the established places at which, the persons from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(2) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the component; and

(5) Each amendment, revision, or repeal of matters referred to in paragraphs (a)(1) through (4) of this section.

(b) *Limitations*—(1) *Incorporation by reference in the FEDERAL REGISTER.* Matter reasonably available to the class of persons affected thereby, whether in a private or public publication, will be deemed published in the FEDERAL REGISTER for purposes of paragraph (a) of this section when it is incorporated by reference therein with the approval of the Director of the Federal Register. The matter which is incorporated by reference must be set forth in the private or public participation substantially in its entirety and not merely summarized or printed as a synopsis. Matter, the location and

scope of which are familiar to only a few persons having a special working knowledge of the activities of the Department of the Treasury, may not be incorporated in the FEDERAL REGISTER by reference. Matter may be incorporated by reference only pursuant to the provisions of 5 U.S.C. 552(a)(1) and 1 CFR part 20.

(2) *Effect of failure to publish.* Except to the extent that a person has actual and timely notice of the terms of any matter referred to in paragraph (a) of this section which is required to be published in the FEDERAL REGISTER, such person is not required in any matter to resort to, or be adversely affected by, such matter if it is not so published or is not incorporated by reference therein pursuant to paragraph (b)(1) of this section. Thus, for example, any such matter which imposes an obligation and which is not so published or incorporated by reference will not adversely change or affect a person's rights.

#### § 1.4 Public inspection and copying.

(a) *In general.* Subject to the application of the exemptions described in § 1.2(c), each component of the Department of the Treasury is required in conformance with 5 U.S.C. 552(a)(2), to make available for public inspection and copying, or, in the alternative, to promptly publish and offer for sale the following information with respect to the component:

(1) Final opinions, including concurring and dissenting opinions, and orders, if such opinions and orders are made in the adjudication of cases;

(2) Those statements of policy and interpretation which have been adopted by the component but are not published in the FEDERAL REGISTER; and

(3) Its administrative staff manuals and instructions to staff that affect a member of the public.

(b) *Indexes.* Each component of the Department of the Treasury is hereby also required in conformance with 5 U.S.C. 552(a)(2), to maintain and make available for public inspection and copying current indexes identifying any matter described in paragraphs (a) (1) through (3) of this section which is issued, adopted, or promulgated after July 4, 1967, and which is required to be

made available for public inspection or published. In addition, each component shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplement unless the head of each component (or a delegate) determines by order published in the FEDERAL REGISTER that the publication would be unnecessary and impractical; in which case the component shall nonetheless provide copies of the index on request at a cost not to exceed the direct cost of duplication.

(c) *Effect of failure to publish or make available.* No matter, described in paragraphs (a) (1) through (3) of this section, which is required by this paragraph to be made available for public inspection or published, may be relied upon, used, or cited as precedent by the component against a party, other than an agency, unless that party has actual and timely notice of the terms of such matter or unless the matter has been indexed and either made available for inspection or published, as provided by this paragraph. This paragraph may be interpreted to apply only to matters which have precedential significance. It does not apply to matters which have been made available pursuant to § 1.3.

(d) *Deletion of identifying details.* To prevent a clearly unwarranted invasion of personal privacy, a component of the Department of the Treasury may, in accordance with 5 U.S.C. 552(a)(2), delete identifying details contained in any matter described in paragraphs (a) (1) through (3) of this section before making such matter available for inspection or publishing it. However, in every case where identifying details are so deleted, the exemption justifying the deletion will be identified in an attachment to the document from which the identifying details have been deleted.

(e) *Public reading rooms.* Each component of the Department of the Treasury shall make available for inspection and copying, in a reading room or otherwise, the matters described in paragraphs (a) (1) through (3) of this section which are required by such paragraph (a) to be made available for public inspection or published in the current indexes such matters. Facilities shall be